

### **III. REMARKS**

#### **Status of the Claims**

Claims 1, 11 and 17 are amended. Claims 1-17 are presented for further consideration.

#### **Summary of the Office Action**

Claims 1-3, 8, 10, and 17 stand rejected under 35USC102(e) on the basis of the cited reference Chapman, U.S. Patent No. 5,926,468. Claims 4-7, 9, and 13-16 stand rejected under 35USC 103(a) based on the reference Chapman in view of Casello, U.S. Patent No. 5,754,586. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

Claims 11-12 are indicated as containing allowable subject matter if rewritten in independent form. Claim 11 is amended to include all of the limitations of claims 1 and 10 and accordingly claims 11 and 12 are condition for allowance.

#### **Discussion of the Cited Reference**

The Examiner has cited the reference Chapman in support of the rejection based on anticipation. In the system of Chapman a data link is established for communicating between a first entity and a second entity. Each entity has a data link layer. In the event of a failed transmission of data information frames, the data link layers must be reset. As described in column 5, lines 19-35, the reset transmission and reset acknowledgement transmissions use conventional information frames to carry the information relating to resetting.

As described in the amended claims 1 and 17 of this application, the applicant uses specific Reset Protocol Data Units (PDU) and Reset Acknowledgement Protocol Data Units (PDU) to carry the information relating to resetting. As indicated in the Technical Specification, ETSI TS 125 322 V3.1.2 (2000-2001) incorporated by reference in this application on page 1, line 27 of this application, the so called RESET PDU's and RESET ACK PDU's have a higher priority than ordinary Acknowledged Mode Data PDU's. This results in a higher certainty of success in the reset process than in the system of Chapman.

Since the system of Chapman does not utilize the higher priority transmissions, the cited reference fails to support the Examiner's rejection.

#### **The Issue of Anticipation**

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

"...it must be shown that the reference contains all of the elements of the claims apart from irrelevant or merely extraneous variations, and the elements are arranged in the same way to achieve the same result which is asserted to be an inventive function..." 454 U.S. 1129 (1981)

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the system of the reference Chapman, it becomes clear that the system of Chapman is missing significant

elements of independent claims 1 and 17. There is no provision in for using higher priority transmissions to facilitate the resetting process. Claim 17 states:

"transmission means for transmitting to the other communication device first pieces of information indicating the need for resetting the communication connection and second pieces of information indicating the completion of the resetting procedure, said transmission means being adapted to use higher priority for transmitting said first and second pieces of information than for transmitting ordinary data in said communication connection,"

Equivalent language also is contained in claim 1. Since these elements form no part of the system of Chapman, there would be no infringement, if Chapman was later, therefore, the cited reference does not support the rejection by the Examiner based on anticipation.

The above arguments are equally applicable to the rejected dependent claims 2,3,8, and 10.

The Examiner's asserts, as the basis for the rejection based on obviousness, that the cited reference Chapman teaches all of the claim limitations of claim 2. Applicant submits that this is not accurate because of the deficiencies of Chapman as stated above. The combination of the teaching of Carsello with that of Chapman does not remedy the deficiencies.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$110.00 is enclosed for a one month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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11 June 2004

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#### CERTIFICATE OF MAILING

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